

Todd M. Friedman (216752)
Adrian R. Bacon (280332)
Law Offices of Todd M. Friedman, P.C.
324 S. Beverly Dr. #725
Beverly Hills, CA 90212
Phone: (877) 206-4741
Fax: (866)633-0228
tfriedman@toddfllaw.com
abacon@toddfllaw.com
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JASON ALAN, on behalf of himself and all) Case No.
others similarly situated,)

Plaintiff,)

vs.)

CALLERID4U, INC., PAUL MADUNO, and)
individual, and, LUIS MARTINEZ, an)
individual,)
Defendants.)

CLASS ACTION

COMPLAINT FOR VIOLATIONS OF:

1. NEGLIGENT VIOLATIONS OF THE
TELEPHONE CONSUMER
PROTECTION ACT [47 U.S.C. §227 ET
SEQ.]
2. WILLFUL VIOLATIONS OF THE
TELEPHONE CONSUMER
PROTECTION ACT [47 U.S.C. §227 ET
SEQ.]

DEMAND FOR JURY TRIAL

Plaintiff, JASON ALAN ("Plaintiff"), on behalf of himself and all others similarly
situated, alleges the following upon information and belief based upon personal knowledge:

NATURE OF THE CASE

1. Plaintiff brings this action for himself and others similarly situated seeking
damages and any other available legal or equitable remedies resulting from the illegal actions of
CALLERID4U, INC., PAUL MADUNO, and LUIS MARTINEZ, (collectively "Defendants"),
in negligently, knowingly, and/or willfully contacting Plaintiff on Plaintiff's cellular telephone
in violation of the Telephone Consumer Protection Act, 47. U.S.C. § 227 *et seq.* ("TCPA"),

1 thereby invading Plaintiff's privacy.

2 **JURISDICTION & VENUE**

3 2. Jurisdiction is proper under 28 *U.S.C. § 1332(d)(2)* because Plaintiff, a resident
4 of California, seeks relief on behalf of a Class, which will result in at least one class member
5 belonging to a different state than that of Defendants, a company with its principal place of
6 business in Washington state and individuals residing in that state. Plaintiff also seeks up to
7 \$1,500.00 in damages for each call in violation of the TCPA, which, when aggregated among a
8 proposed class in the thousands, exceeds the \$5,000,000.00 threshold for federal court
9 jurisdiction. Therefore, both diversity jurisdiction and the damages threshold under the Class
10 Action Fairness Act of 2005 ("CAFA") are present, and this Court has jurisdiction.
11

12 3. Venue is proper in the United States District Court for the Central District of
13 California pursuant to 18 *U.S.C. 1391(b)* and 18 *U.S.C. § 1441(a)* because Defendants do
14 business within the state of California and Plaintiff resides within this District.
15

16 **PARTIES**

17 4. Plaintiff, JASON ALAN ("Plaintiff"), is a natural person residing in Los Angeles
18 County in the state of California and is a "person" as defined by 47 *U.S.C. § 153 (39)*.
19

20 5. Defendant, CALLERID4U, INC. ("Defendant CallerID4U"), is a provider of
21 caller id services to call centers and is a "person" as defined by 47 *U.S.C. § 153 (39)*.
22

23 6. Defendants PAUL MADUNO ("Defendant Maduno") and LUIS MARTINEZ
24 ("Defendant Martinez") are individuals who at all relevant times the owners of Defendant
25 CallerID4U. As president of Defendant CallerID4U, Defendants Maduno and Martinez were
26 responsible for the overall success of the company. Defendants Maduno and Martinez materially
27 participated in selling telephone information by occupying a position of critical importance to
28

1 Defendants Maduno and Martinez's business; as the president of Defendant CallerID4U, they
2 exercised control over the affairs of the business; and they were regularly engaged in the services
3 provided by Defendant CallerID4U through their involvement in Defendant CallerID4U's
4 affairs. Defendants Maduno and Martinez continued to play a key role in maintaining and
5 expanding Defendant CallerID4U's activities throughout the time in question.
6

7 7. Plaintiff is informed and believes that at all relevant times, each and every
8 Defendant was acting as an agent and/or employee of each of the other Defendant and was acting
9 within the course and scope of said agency and/or employment with the full knowledge and
10 consent of each of the other Defendants. Plaintiff is informed and believes that each of the acts
11 and/or omissions complained of herein was made known to, and ratified by, each of the other
12 Defendants.

13 **FACTUAL ALLEGATIONS**

14 8. Beginning in or around June of 2015, Defendants contacted Plaintiff on his
15 cellular telephone, ending in -7456.

16 9. On or about June 11, 2015, at approximately 4:06 P.M., Defendants called
17 Plaintiff from telephone number 360-633-9449. On information and belief, Defendants own,
18 control and/or used the phone number 360-633-9449, and called Plaintiff using this phone
19 number. This phone number came up on Plaintiff's caller ID when Plaintiff received the
20 automated phone call at issue.
21

22 10. Defendants used an "automatic telephone dialing system", as defined by 47 U.S.C.
23 § 227(a)(1) to place its call to Plaintiff seeking to sell or solicit its business services. Plaintiff
24 answered the phone after being called by Defendants on June 11, 2015, Plaintiff was rerouted to
25 a third party and greeted by an automated/prerecorded voice, which asked him at the onset of the
26 call to press "one" to speak to a representative about his google local listing, or press "two" to be
27 put on do not call list. The use of such an automated database, as well as the use of an
28

1 automated/prerecorded voice at the onset of the call strongly indicate that Defendants utilized an
2 ATDS to place the call to Plaintiff's cellular phone.

3 11. Plaintiff is informed, believes and based thereon alleges that Defendants acted as
4 a dialer company that routed calls for a third party who was engaging in telemarketing.

5 12. Plaintiff is informed, believes and based thereon alleges that Defendants have
6 entered into revenue sharing agreements with telemarketers who make unsolicited telephone
7 calls, such as the one that Plaintiff was routed to, and profits directly from these outbound
8 unsolicited telephone calls.
9

10 13. Defendants' calls constituted calls that were not for emergency purposes as
11 defined by *47 U.S.C. § 227(b)(1)(A)*.
12

13 14. Defendants' calls were placed to a telephone number assigned to a cellular
14 telephone service for which Plaintiff incurs a charge for incoming calls pursuant to *47 U.S.C. §*
15 *227(b)(1)*.
16

17 15. Plaintiff is not a customer of Defendants and have never provided any personal
18 information, including his cellular telephone number, to Defendants for any purpose whatsoever.
19 Plaintiff has no idea why he was getting calls of this nature from Defendants, and never heard of
20 CALLERID4U, Inc. or provided consent to receive robo calls on his cell phone from the
21 company. Accordingly, Defendants never received Plaintiff's "prior express consent" to receive
22 calls using an automatic telephone dialing system or an artificial or prerecorded voice on his
23 cellular telephone pursuant to *47 U.S.C. § 227(b)(1)(A)*.
24

25 16. Plaintiff alleges, on information and belief, and through investigative efforts of
26 his attorneys, that he is not alone, and that Defendants routinely cold-calls consumers, without
27 consent, for third party telemarketers, and utilizes an ATDS to place such calls. Plaintiff alleges
28

1 that this practice is widespread, systematic, and violates the TCPA.

2 **CLASS ALLEGATIONS**

3 17. Plaintiff brings this action on behalf of himself and all others similarly situated,
4 as a member of the proposed class (hereafter “The Class”) defined as follows:

5
6 All persons within the United States who received any telephone
7 calls from Defendants to said person’s cellular telephone made
8 through the use of any automatic telephone dialing system or an
9 artificial or prerecorded voice and such person had not previously
consented to receiving such calls within the four years prior to the
filing of this Complaint

10 18. Plaintiff represents, and is a member of, The Class, consisting of All persons
11 within the United States who received any telephone calls from Defendants to said person’s
12 cellular telephone made through the use of any automatic telephone dialing system or an artificial
13 or prerecorded voice and such person had not previously not provided their cellular telephone
14 number to Defendants within the four years prior to the filing of this Complaint.
15

16 19. Defendants, its employees, and agents are excluded from The Class. Plaintiff does
17 not know the number of members in The Class, but believes the Class members number in the
18 thousands, if not more. Thus, this matter should be certified as a Class Action to assist in the
19 expeditious litigation of the matter.
20

21 20. The Class is so numerous that the individual joinder of all of its members is
22 impractical. While the exact number and identities of The Class members are unknown to
23 Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff is
24 informed and believes and thereon alleges that The Class includes thousands of members.
25 Plaintiff alleges that The Class members may be ascertained by the records maintained by
26 Defendants.
27
28

1 21. Plaintiff and members of The Class were harmed by the acts of Defendants in at
2 least the following ways: Defendants illegally contacted Plaintiff and Class members via their
3 cellular telephones thereby causing Plaintiff and Class members to incur certain charges or
4 reduced telephone time for which Plaintiff and Class members had previously paid by having to
5 retrieve or administer messages left by Defendants during those illegal calls, and invading the
6 privacy of said Plaintiff and Class members.
7

8 22. Common questions of fact and law exist as to all members of The Class which
9 predominate over any questions affecting only individual members of The Class. These common
10 legal and factual questions, which do not vary between Class members, and which may be
11 determined without reference to the individual circumstances of any Class members, include, but
12 are not limited to, the following:
13

- 14 a. Whether, within the four years prior to the filing of this Complaint,
15 Defendants made any call (other than a call made for emergency purposes
16 or made with the prior express consent of the called party) to a Class
17 member using any automatic telephone dialing system or any artificial or
18 prerecorded voice to any telephone number assigned to a cellular
19 telephone service;
20 b. Whether Plaintiff and the Class members were damaged thereby, and the
21 extent of damages for such violation; and
22 c. Whether Defendants should be enjoined from engaging in such conduct in
23 the future.

24 23 As a person that received a call from Defendants using an automatic telephone
25 dialing system or an artificial or prerecorded voice, without Plaintiff's prior express consent,
26 Plaintiff is asserting claims that are typical of The Class.
27

28 24. Plaintiff will fairly and adequately protect the interests of the members of The

1 Class. Plaintiff has retained attorneys experienced in the prosecution of class actions.

2 25. A class action is superior to other available methods of fair and efficient
3 adjudication of this controversy, since individual litigation of the claims of all Class members is
4 impracticable. Even if every Class member could afford individual litigation, the court system
5 could not. It would be unduly burdensome to the courts in which individual litigation of
6 numerous issues would proceed. Individualized litigation would also present the potential for
7 varying, inconsistent, or contradictory judgments and would magnify the delay and expense to
8 all parties and to the court system resulting from multiple trials of the same complex factual
9 issues. By contrast, the conduct of this action as a class action presents fewer management
10 difficulties, conserves the resources of the parties and of the court system, and protects the rights
11 of each Class member.
12

13
14 26. The prosecution of separate actions by individual Class members would create a
15 risk of adjudications with respect to them that would, as a practical matter, be dispositive of the
16 interests of the other Class members not parties to such adjudications or that would substantially
17 impair or impede the ability of such non-party Class members to protect their interests.
18

19 27. Defendants have acted or refused to act in respects generally applicable to The
20 Class, thereby making appropriate final and injunctive relief with regard to the members of the
21 California Class as a whole.
22

23 **FIRST CAUSE OF ACTION**
24 **Negligent Violations of the Telephone Consumer Protection Act**
25 **47 U.S.C. §227 et seq.**

26 28. Plaintiff repeats and incorporates by reference into this cause of action the
27 allegations set forth above at Paragraphs 1-27.

28 29. The foregoing acts and omissions of Defendants constitute numerous and

multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

30. As a result of Defendants' negligent violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

31. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

SECOND CAUSE OF ACTION
Knowing and/or Willful Violations of the Telephone Consumer Protection Act
47 U.S.C. § 227 et seq.

32. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-31.

33. The foregoing acts and omissions of Defendants constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

34. As a result of Defendants' knowing and/or willful violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

35. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendants for the following:

///

///

///

FIRST CAUSE OF ACTION

**Negligent Violations of the Telephone Consumer Protection Act
47 U.S.C. §227 et seq.**

- As a result of Defendants' negligent violations of *47 U.S.C. §227(b)(1)*, Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to *47 U.S.C. 227(b)(3)(B)*; and
- Any and all other relief that the Court deems just and proper.

SECOND CAUSE OF ACTION

**Knowing and/or Willful Violations of the Telephone Consumer Protection Act
47 U.S.C. §227 et seq.**

- As a result of Defendants' willful and/or knowing violations of *47 U.S.C. §227(b)(1)*, Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to *47 U.S.C. §227(b)(3)(B)* and *47 U.S.C. §227(b)(3)(C)*; and
- Any and all other relief that the Court deems just and proper.

Respectfully Submitted this 16th day of March, 2016.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman
Todd M. Friedman
Law Offices of Todd M. Friedman
Attorney for Plaintiff